



THE SENATE OF MARYLAND
ANNAPOLIS, MARYLAND 21401

January 23, 2025

The Maryland State Senate Judicial Proceedings Committee
The Honorable William C. Smith, Jr.
2 East Miller Senate Building
Annapolis, Maryland 21401

Re: Senate Bill 19: *Estates and Trusts – Compensation of Guardians of Property and Trustees*

Dear Chairman Smith and Members of the Committee,

Under current Maryland Code Est. & Trusts §14.5-708, a trustee or a guardian is entitled to commission based on the amount of income collected in each year and on the fair value of the principal held in the trust at the end of each year.

The rate of commission for income is as follows: 6% on all income from real estate, ground rents, and mortgages collected in each year; and 6.5% on the first \$10,000 of all other income collected in each year; 5% on the next \$10,000, 4% on the next \$10,000; and 3% on any remainder.

The rate of commission for principal is: 0.4% on the first \$250,000; 0.25% on the next \$250,000; 0.15% on the next \$500,000; and 0.1% on any excess.

Under current law, a trustee which is a financial institution or who is a member of the Maryland Bar may file a schedule of rates to govern the trust. This schedule is subject to circuit court review if a qualified beneficiary files a petition to review the reasonableness of the rates in the schedule.

However, currently trustees who are not financial institutions or members of the Maryland Bar are limited to the commission formula set forth in the statute based on the income and principal of the trust each year. This can result in an individual trustee receiving commissions that inadequately reflect the work the individual trustee did during the year.

Senate Bill 19 resolves this issue. First, for guardians, it retains the commission formula based on the income and principal administered by the guardian but accords to the guardian the right to petition for an increase in fees, providing that notice of such a petition must be given to interested parties of the guardianship estate. Second, for trustees, it removes the commission calculation based on income and principal of the trust and replaces it with a standard of “reasonable under the circumstances”, as determined by a court with jurisdiction over the trust. Insofar as an individual trustee is concerned, the individual trustee will be able to receive

“reasonable” commissions that reflect the work the individual trustee did on behalf of the trust each year. Insofar as trustees which are financial institutions or who are members of the Maryland Bar are concerned, Senate Bill 19 retains their right to file a schedule of rates and give notice to all qualified beneficiaries, who will have the right to come into court and oppose the proposed fee schedule. In either event, one half of the compensation paid to a trustee will be allocated to the income of the trust, and the other half of the compensation will be allocated to the principal of the trust.

I appreciate the Committee’s consideration of Senate Bill 19 and will be happy to answer any questions the Committee may have.